AGENCY, 7 ed., § 222. The same principles would preclude recovery in the present case — where, instead of *failure* to enter into a contract, there was such negligence in the formation of it that the promissor had a defense aside from that of illegality. It was argued that, on the facts, clearly no question of illegality would have arisen, if the agent had not been negligent. But the same public interest, because of which a recovery is denied on the illegal contract itself, forbids a recovery here. As the contract should not have been made in the first instance, no court will inquire whether or not it would have been performed. To be sure, most courts permit a recovery by the principal of the proceeds of an illegal transaction in the hands of his agent. *Baldwin* v. *Potter*, 46 Vt. 402; *Yale Jewelry Co.* v. *Joyner*, 159 N. C. 644, 75 S. E. 993; *Tenant* v. *Elliott*, 1 B. & P. 3. The soundness of these cases is open to question. See 3 WILLISTON, CONTRACTS, § 1786. However, these cases are not to be relied upon in support of the plaintiff in the present case. In the former cases, the agent will profit to the extent of the funds in his hands, if a breach of the fiduciary relation is permitted, a consideration in no wise applicable to the principal case.

ALIENS — RIGHT OF CITIZEN OF UNITED STATES ENGAGED IN IRISH REBELLION TO BE TREATED AS AN ALIEN FRIEND. — Plaintiff, formerly an Irishman, became a naturalized American citizen. He returned to Ireland and engaged in rebellious activities against the Crown. When arrested, money found on his person was seized by the authorities. Upon release he sues for its recovery. *Held*, that the plaintiff can recover. *Pedlar* v. *Johnstone*, [1920] 2 I. R. 450.

The common law is clear that an alien friend has all the rights of a subject in respect to his personal property and that therefore such property may not be seized because of his alienage. See *Calvin's Case*, 7 Coke, 17a; *Porter* v. *Freudenberg*, [1915] 1 K. B. 857, 869. See also 1 BL. COMM. 372. But when an alien domiciled in a friendly country is engaged in rebellion against the government of the country in which he is located, he forfeits almost all of his right to the diplomatic protection of his own country. See *Dennison* v. *Mexico*, 3 Moore Arb. 2766; Proclamation of President Taylor, 3 MOORE, INT. LAW DIG. 787; Theodore S. Woolsey in (1910) PROCEEDINGS OF AM. SOC. OF INT. LAW, 99. His nation will, however, protect him from treatment contrary to civilized usage. See *Dolan* v. *Mexico*, 3 Moore Arb. 2767; *Nolan* v. *United States*, 4 Moore Arb. 3302. But as there is no such evidence of ill usage the plaintiff in the present case has forfeited his right to be treated as a citizen of the United States, and therefore cannot rely on the protection given to alien friends. The court would have been justified in refusing to recognize that he has greater rights than an alien enemy.

APPEAL AND ERROR — DETERMINATION AND DISPOSITION OF CAUSE — MOOT CASES IN EQUITY. — The plaintiff, a mine-owner, sued to enjoin the adjutant general and governor of North Dakota from carrying into effect a proclamation by the governor that coal mines should be operated by soldiers during a strike. The court below entered an order denying a temporary injunction, and the plaintiff appealed. By the time the case was heard on appeal, the mines had been returned to the plaintiff. *Held*, that no decision be made on the merits, but that the case be remanded with directions to vacate the order without prejudice to either party. *Dakota Coal Co.* v. *Fraser, Adjutant General*, 267 Fed. 130 (C. C. A.).

For a discussion of this case, see NOTES, p. 416, *supra*.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — ESTABLISHMENT OF BUILDING LINES FOR AESTHETIC PURPOSES. — A state statute empowered a

town to appoint a commission for establishing building lines. (1917 CONN. SP. LAWS, p. 827.) No compensation for the abutting owner was provided. The defendants disregarded a building line so established. *Held*, that the statute is constitutional. *Town of Windsor* v. *Whitney*, 111 Atl. 354 (Conn.).

For a discussion of the principles involved in this case, see NOTES, p. 419, *supra*.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — STATUTE PLACING LIABILITY UPON OWNER OF AUTOMOBILE FOR INJURIES CAUSED BY NEGLIGENT OPERATION BY IMMEDIATE MEMBERS OF FAMILY. — The plaintiff sued for damages for injuries sustained through the negligent operation of defendant's automobile by his minor son. A statute provided that the owner of any automobile shall be liable for any injury caused by its negligent operation with the express or implied consent or knowledge of the owner. And that in event of its being driven at the time of the injury by an immediate member of the owner's family, his knowledge or consent shall be conclusively presumed. (1915, MICH. PUB. ACTS, No. 302, § 29.) The defendant offered evidence that the automobile was being driven without his knowledge and contrary to his express orders. The trial court excluded the evidence. *Held*, by an evenly divided court, that the statute is constitutional. *Hawkins* v. *Ermatinger*, 179 N. W. 249 (Mich.).

Powers to effectuate legitimate purposes of government, not delegated to the United States, reside in the states. Included is the so-called "police power," necessary to secure the health, safety, and welfare of their inhabitants. Any exercise of this power by a statute reasonably designed to accomplish its purpose, in a way not outrageous, is constitutional. For a judicial standard of reasonable appropriateness in the circumstances is really all that is required by the due process clause and similar language in state constitutions. It is clear that in Michigan, the home of the automobile industry, with one automobile in 1919 to every twelve inhabitants, adequate protection requires strict motor traffic regulation. And it is equally obvious that the statute in this case has a decided tendency to effect this result. The division of the court can only be explained by a unanimous decision in 1913 which declared unconstitutional a statute placing liability upon the owner for any injury caused by the negligent operation of his automobile, except where it had been previously stolen. *Daugherty* v. *Thomas*, 174 Mich. 371, 140 N. W. 615. Inasmuch as that statute was just as obviously constitutional as this one, we note with approval the rapidly improving attitude of the Michigan Supreme Court.

CONSTITUTIONAL LAW — POWER OF LEGISLATURE — CONTROL OF JUDICIAL PROCEDURE BY LEGISLATURES. — The rules of the Supreme Court of Indiana required the briefs of counsel to contain a concise statement of so much of the record as presented every error and exception relied upon. The State Legislature abolished this rule. *Held*, that the act was void. *Epstein* v. *State*, 128 N. E. 353 (Ind.).

For a discussion of this case, see NOTES, p. 424, *supra*.

CONSTITUTIONAL LAW — STATE AND FEDERAL JURISDICTION — POWER OF A STATE TO SUBJECT FEDERAL AGENCIES TO STATE POLICE REGULATIONS. — A Maryland statute made it a crime to operate a motor vehicle in Maryland without obtaining a license by submitting to examination as to competency to drive and by paying a fee of three dollars. An employee of the United States Post Office was convicted and fined for operating a government mail truck without having obtained such a license. *Held*, that the judgment be reversed. *Johnson* v. *Maryland*, U. S. Sup. Ct., October Term, 1920, No. 289.